

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE NEW ENGLAND COMPOUNDING  
PHARMACY, INC. PRODUCTS LIABILITY  
LITIGATION

MDL No. 2419

Dkt. No. 1:13-md-2419 (FDS)

THIS DOCUMENT RELATES TO:

All Actions

**[PROPOSED] MDL ORDER #**

The Court understands that some state statutes, for example Tenn. Code Ann. § 29-26-121 and similar statutes, and/or the Federal Rules of Civil Procedure impose deadlines for curing service or pre-suit notice defects. This order is intended to address the need for Plaintiffs to have an opportunity to cure (if curable) any alleged deficiencies in serving Complaints or satisfying pre-suit filing requirements, including notice, given that the deadlines for Defendants to answer or otherwise respond to Complaints has been extended. Accordingly, it is ordered that:

For any case pending in this Court or subject to transfer to this Court against an Unaffiliated Defendant, who has not previously filed a Notice of Participation in the Mediation Program, on or before December 20, 2013, such Unaffiliated Defendant that wishes to assert a defense of insufficiency of process or failure to satisfy pre-suit notice or other requirements pursuant to state law shall file a master motion to dismiss by January 10, 2014, identifying each case that is subject to dismissal on these procedural grounds and indicating, by letter to the Plaintiffs' Steering Committee, the following:

1. The case name and civil action number,
2. A brief description of the alleged problem with service of process; and
3. A brief description of the alleged problem/insufficiency in satisfying state-law pre-

suit filing requirements.

~~The Unaffiliated Defendants shall provide this information to the Plaintiffs' Steering Committee by no later than January 10, 2013.~~

As to any case subject to this Order for which the Unaffiliated Defendants fail to file a motion to dismiss by January 10, 2014, ~~t~~The time requirements for curing any service and pre-suit notice requirements (including any statute of limitations) shall be tolled from January 10, 2014 ~~the date of this Order~~ against such a Defendant until such Defendant provides the information required by this order.

**So Ordered this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_.**

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F. Dennis Saylor IV  
United States District Judge